

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re	X	
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THE FINANCIAL OVERSIGHT AND	:	
MANAGEMENT BOARD FOR	:	PROMESA
PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17 BK 3283-LTS
	:	
THE COMMONWEALTH OF PUERTO RICO,	:	(Jointly Administered)
et. al.,	:	
	:	
DEBTORS. ¹	:	
	X	

**JOINT STATUS REPORT BY FEE EXAMINER AND DUFF & PHELPS LLC
IN RESPONSE TO ORDER DATED OCTOBER 25, 2019 (Docket Entry No. 9008)**

1. Duff & Phelps LLC and the Fee Examiner submit this report pursuant to the *Order Setting Deadline for Joint Status Report by Fee Examiner and Duff & Phelps* [Dkt. Nos. 8945 and 9008].
2. Duff & Phelps LLC ("D&P") filed its first interim application for compensation and reimbursement of expenses on March 18, 2019, covering services and expenses between November 1, 2018 and January 31, 2019 (Doc. No. 5800) before receiving the Fee Examiner's November 2018 memorandum setting forth "uniform fee and expense standards"

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

for all retained professionals. The Fee Examiner acknowledged that fact, being unaware of Duff & Phelps' retention by the FOMB prior to the fee application's filing. Objection, ¶ 2, at 3n. 5 [Doc. No. 8862]. The Fee Examiner notes that many of the fee and expense issues raised in the objection derive from well-established standards in bankruptcy billing embodied in the local rules, the U.S. Trustee guidelines, and elsewhere.

3. The Fee Examiner sent to D&P its June 6, 2019 "Letter Report" with recommendations and requests for additional information. In response, D&P promptly retained counsel to work with it to comply with these requests. A true and correct copy of the letter report is attached to this Report at Exhibit A.

4. D&P amended its fee application in an attempt to address the Fee Examiner's questions and concerns, filing an amended application on August 13, 2019 (Doc. No. 8450). The amount of requested fees and expenses, however, did not change. Between August and October, 2019, D&P and the Fee Examiner's counsel had continuing substantive conversations regarding the Amended Application. D&P furnished additional documentary support and provided the Fee Examiner with summaries to facilitate negotiations. The Fee Examiner contends that these materials have been insufficient to address all concerns raised in the letter report and objection.

5. Negotiations between the parties concluded in mid-October primarily over the interpretation of the D&P "Engagement Letter," as amended three times during 2018 by the Financial Oversight and Management Board for Puerto Rico ("FOMB"). The parties disagreed as to the substance and meaning of the Amended Engagement Letter.

6. D&P made substantial good faith reductions of its fees and other expenses during the parties' negotiations. Because of their disagreement as to the amount of D&P's reductions, the parties submitted their dispute to the Court in mid-October.

7. D&P communicated with the Fee Examiner's counsel early in the week of October 21, 2019 to continue their negotiations.

8. The parties wish to continue negotiating in good faith with the Fee Examiner while preparing expeditiously for an evidentiary hearing. Duff & Phelps wishes to conduct discovery of the Oversight Board related to its intent as reflected in the engagement agreements. Duff & Phelps states that its discovery will consist of narrow, focused document production and depositions. Duff & Phelps commits to completing this discovery within sixty to ninety days. By the end of January, 2020, the parties should be prepared for any necessary hearing, if they have not already settled their dispute. Specifically, the parties propose the following schedule:

- Document Discovery: completed by November 29, 2019
- Depositions: completed by January 3, 2020
- Pre-Trial Stipulations, Simultaneous pre-trial briefs: completed by January 8, 2020

D&P's Responses To The Fee Examiner's Legal Position

<u>Fee Examiner</u>	<u>D&P</u>
17. PROMESA and the Bankruptcy Code ("Code") provide applicable standards for reasonable compensation	17. Agree
18. PROMESA and Code § 330(a)(1) provide for "reasonable compensation for actual, necessary services" by professionals and "reimbursement for actual, necessary expenses"	18. Agree

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|---|-----------|
| 19. PROMESA and Code "focus on reasonableness and . . . benefit to . . . estate" | 19. Agree |
| 20. Professional's application must show need for services and "real benefit. . . ." to estate | 20. Agree |
| 21. Applicant bears burden of proof | 21. Agree |
| 22. Charges must be "detailed, specific" and itemized | 22. Agree |
| 23. Court has "independent burden to review fee applications" and may "reduce fees or expenses when they are disproportionate. . . ." | 23. Agree |

WE HEREBY CERTIFY that on this date, we electronically filed the foregoing report with the Clerk of the Court using the CM/ECF system that will send notification of such filing to all attorneys of record registered in the use of the CM/ECF system.

Dated: November 14, 2019
San Juan, Puerto Rico

**ANTONETTI MONTALVO &
RAMIREZ COLL**

Attorneys for Duff & Phelps, LLC
P.O. Box 13128
San Juan, PR 00908
Tel: (787) 977-0303
Fax: (787) 977-0323

s/ Jose L. Ramierz-Coll

JOSE L. RAMIREZ-COLL
USDC-PR No. 221702
jramirez@amrclaw.com

EDEG LEGAL STRATEGIES, PSC

s/ Eyck O. Lugo

Eyck O. Lugo
Vilmarys M. Quiñones Cintrón
252 Ponce de León Avenue
Citibank Tower, 12th Floor
San Juan, PR 00918
Tel: (787) 522-2000
Fax: (787) 522-2010

Puerto Rico Counsel for Fee Examiner

SCHULTE ROTH & ZABEL LLP

Attorneys for Duff & Phelps, LLC
919 Third Avenue
New York, New York 10022
Tel: (212) 756-2150
Fax: (212) 593-5955

s/ Michael L. Cook

MICHAEL L. COOK
(Admitted Pro Hac Vice)
michael.cook@srz.com

GODFREY & KAHN, S.C.

One East Main Street, Suite 500
Madison, WI 53703
Tel: (608) 257-3911
Fax: (608) 257-0609

Brady Williamson (Pro Hac Vice)
Fee Examiner

Katherine Stadler (Pro Hac Vice)
Counsel for the Fee Examiner